

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JASON P. HINZO,

Petitioner,

vs.

No. CIV 09-489 MCA/LFG

GEORGE TAPIA, Warden, and
GARY K. KING, Attorney General
of the State of New Mexico,

Respondents.

**ORDER DENYING MOTION
FOR APPOINTMENT OF COUNSEL**

This is a proceeding on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, filed May 13, 2009.

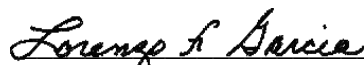
Petitioner Jason P. Hinzo (“Hinzo”) filed a Motion Requesting Appointment of Counsel [Doc. 9] on July 22, 2009. As grounds for this motion, Hinzo states that he is indigent and was granted permission to proceed *in forma pauperis*.

Hinzo is advised that he has no right to appointed counsel to pursue a habeas corpus petition in federal courts, unless and until the Court finds that an evidentiary hearing is necessary. Swazo v. Wyoming Dep’t of Corr., 23 F.3d 332, 333 (10th Cir. 1994). This case has not reached that point. However, the Court may, in its discretion, appoint counsel for civil litigants such as Hinzo.

Factors the Court weighs when considering a motion for appointment of counsel include “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” Williams v. Meese, 926 F.2d 994, 996 (10th Cir. 1991). *See also*, Engberg v. Wyoming, 265 F.3d 1109, 1121-22 (10th Cir. 2001). Accordingly, having reviewed the petition in light of the foregoing factors, the Court finds that Petitioner understands the issues in the case and appears to be representing himself

in an intelligent and capable manner.

IT IS THEREFORE ORDERED that Plaintiff's Motion Requesting Appointment of Counsel [Doc. 9] is denied at this time.

A handwritten signature in cursive script, reading "Lorenzo F. Garcia", positioned above a horizontal line.

Lorenzo F. Garcia
Chief United States Magistrate Judge